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# HOUSE BILL No. 1181

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.

**Synopsis:** IURC enforcement authority. Gives the Indiana utility regulatory commission (IURC) authority to impose certain penalties on a utility that violates Indiana utility law or fails to comply with an order of the commission or a division of the commission. Provides for the deposit of revenue collected through monetary penalties in the public utility fund account. Authorizes the commission or a division of the commission to order a utility to provide service within 24 hours if the commission or division determines that the provision of service is necessary to prevent injury to any person or to alleviate an emergency. Provides that each day a utility fails to provide service after ordered by the commission or division is a separate violation for purposes of the commission's authority to impose monetary penalties. Provides that the commission may require a public utility to post a reasonable performance bond as a condition of doing business in Indiana. Repeals a superseded statute relating to the commission's enforcement powers.

**Effective:** July 1, 2001.

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January 9, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1181

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A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-2-115.1 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]: **Sec. 115.1. (a) As used in this section, "order" refers to an**  
4 **order, a decision, a decree, a rule, a direction, a demand, or a**  
5 **requirement of the commission or a division of the commission.**

6       **(b) As used in this section, "utility" refers to a public utility over**  
7 **which the commission has jurisdiction.**

8       **(c) If, after notice and hearing, the commission finds that a**  
9 **utility has:**

10       **(1) violated a provision of this title over which the commission**  
11 **has jurisdiction; or**

12       **(2) failed to comply with any part of an order;**  
13 **the commission may act as provided in subsection (d).**

14       **(d) The commission may issue an order that does one (1) or**  
15 **more of the following if the commission makes a finding under**  
16 **subsection (c):**

17       **(1) Impose a civil penalty of not more than twenty-five**



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thousand dollars (\$25,000) for each violation or noncompliance. For purposes of this subdivision, the commission may consider each day a violation or noncompliance occurs to be a separate violation or noncompliance.

(2) Impose a civil penalty of not more than fifteen percent (15%) of the annual gross intrastate operating revenue of the utility. A utility's gross intrastate operating revenue shall be determined from the most recent public utility annual report filed under IC 8-1-6-5.

(3) Issue an order that the utility cease and desist from the violation or noncompliance.

(4) Issue an order mandating corrective action to alleviate the violation or noncompliance.

(5) Revoke or modify the terms of the utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit issued by the commission.

(e) The commission shall consider the following when determining the appropriateness of the amount of a civil penalty or compromise amount:

(1) The size of the utility.

(2) The gravity of the violation or noncompliance.

(3) The good faith of the utility in attempting to remedy the violation or achieve compliance after receiving notification of the violation or noncompliance.

(f) The attorney general may bring an action in the name of the state of Indiana to enforce an order of the commission under subsection (d), including the collection of an unpaid civil penalty imposed by the commission under subsection (d)(1) or (d)(2). The attorney general may bring the action in a court that has jurisdiction.

(g) All civil penalties accruing under this section are cumulative. A suit for recovery of one (1) civil penalty does not bar or affect:

(1) the recovery of any other civil penalty or forfeiture; or

(2) a criminal prosecution against:

(A) a public utility;

(B) an officer, a director, an agent, or an employee of a public utility; or

(C) any other person.

(h) The secretary of the commission shall deposit any civil penalties collected under this section in the commission public utility fund account established under IC 8-1-6.

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(i) The authority granted under this section is in addition to, and may be exercised independently of, any other authority granted under this article.

SECTION 2. IC 8-1-2-128 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 128. (a) As used in this section, "utility" refers to a public utility over which the commission has jurisdiction.**

**(b) If the commission or a division of the commission:**

**(1) determines that the provision of utility service is necessary to prevent injury to any person or to alleviate an emergency; and**

**(2) directs a utility to provide utility service; the utility shall provide utility service within twenty-four (24) hours after receiving direction from the commission or division of the commission.**

**(c) If the commission finds that a utility has violated subsection (b), each day that the utility fails to provide service as directed by the commission or a division of the commission is considered a separate violation for purposes of imposing civil penalties under section 115.1 of this chapter.**

SECTION 3. IC 8-1-2-129 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 129. The commission may require a public utility to post a reasonable performance bond as a condition of the public utility's operation in Indiana.**

SECTION 4. IC 8-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2. (a) All fees herein prescribed shall be paid into the treasury of the state of Indiana through the secretary of the commission and quietused into an account to be known as the commission public utility fund account. This account shall be used for enforcing the provisions of IC 8-1-1 and IC 8-1-2 and shall be utilized only for the purpose of funding the expenses of the commission and the consumer counselor in amounts not in excess of their respective appropriations by the general assembly, plus the contingency fund. All appropriations under this chapter paid out of the commission public utility fund account shall be subject to the prior approval of the general assembly, the governor, and the state budget agency.**

**(b) The following shall also be deposited in the commission public utility fund account:**

**(1) Fees collected from municipalities under IC 8-1-2-85. ~~shall also be deposited in the commission public utility fund account;~~ as if they were fees collected from public utilities under this**



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1 ~~chapter.~~  
2 **(2) Civil penalties collected under IC 8-1-2-115.1.**  
3 SECTION 5. IC 8-1-2-115 IS REPEALED [EFFECTIVE JULY 1,  
4 2001].

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